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Dated: August 24, 2004

Signature: 

(Lisa J. Michaud)

Docket No.: 101896-0276 (DEP-5241)  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of: Robert E. Simonson

Application No.: 10/021,809

Filed: October 30, 2001

For: CONFIGURED AND SIZED CANNULA

Confirmation No.: 2099

Art Unit: 3731

Examiner: U. T. Ho

**INFORMATION DISCLOSURE STATEMENT (IDS)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to 37 CFR 1.56, 1.97 and 1.98, the attention of the Patent and Trademark Office is hereby directed to the references listed on the attached PTO/SB/08. It is respectfully requested that the information be expressly considered during the prosecution of this application, and that the references be made of record therein and appear among the "References Cited" on any patent to issue therefrom.

This Information Disclosure Statement is filed more than three months after the U.S. filing date, OR more than three months after the date of entry of the national stage of a PCT application, AND after the mailing date of the first Office Action on the merits, whichever occurs first, but before the mailing date of a Final Office Action or Notice of Allowance (37 CFR 1.97(c)).

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A copy of each reference on the PTO/SB/08 is attached.

In accordance with 37 CFR 1.97(g), the filing of this Information Disclosure Statement shall not be construed to mean that a search has been made or that no other material information as defined in 37 CFR 1.56(a) exists. In accordance with 37 CFR 1.97(h), the filing of this Information Disclosure statement shall not be construed to be an admission that any patent,

publication or other information referred to therein is "prior art" for this invention unless specifically designated as such.

It is submitted that the Information Disclosure Statement is in compliance with 37 CFR 1.98 and the Examiner is respectfully requested to consider the listed references.

Our check in the amount of \$180.00 covering the fee set forth in 37 CFR 1.17(p) is enclosed. The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 141449, under Order No. 101896-0276.

Dated: August 24, 2004

Respectfully submitted,

By 

Lisa J. Michaud

Registration No.: 44,238

NUTTER MCCLENNEN & FISH LLP

World Trade Center West

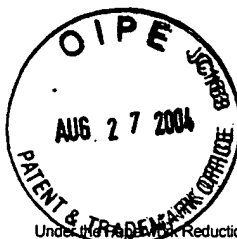
155 Seaport Boulevard

Boston, Massachusetts 02210-2604

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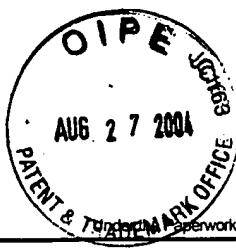
Attorney for Applicant



PTO/SB/08a/b (08-03)  
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Substitute for form 1449A/B/PTO  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  <i>(Use as many sheets as necessary)</i>				<b>Complete if Known</b>	
				Application Number	10/021,809 – Conf. # 2099
				Filing Date	October 30, 2001
				First Named Inventor	Robert E. Simonson
				Art Unit	3731
				Examiner Name	Uyen T. Ho
Sheet	1	of	4	Attorney Docket Number	101896-276 (DEP-5241)

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. <sup>1</sup>	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code <sup>2</sup> (if known)			
	AA	US-2003/0220689	11-27-2003	STEPHEN RITLAND	
	AB	US-2003/0236447	12-25-2003	STEPHEN RITLAND	
	AC	US-2002/0143235	10-03-2002	JAMES J. PAGLIUCA	
	AD	US-2004/0106997	06-03-2004	ROBERT E. LIEBERSON	
	AE	US-2003/0083689	05-01-2003	ROBERT E. SIMONSON	
	AF	US-2002/0082695	06-27-2002	CARSTEN NEUMANN	
	AG	US-2002/0077632	06-20-2002	PAUL M. TSOU	
	AH	US-2002/0058948	05-16-2002	YVAN ARLETTAZ	
	AI	US-2002/0049368	04-25-2002	STEPHEN RITLAND	
	AJ	US-2001/0027320	10-04-2001	RICK SASSO	
	AK	US-2002/0022764	02-21-2002	MAURICE M. SMITH	
	AL	US-2002/0016592	02-07-2002	CHARLES L. BRANCH	
	AM	US-2001/0012942	08-09-2001	BRADLEY T. ESTES	
	AN	US-2002/0011135	01-31-2002	WAYNE HALL	
	AO	RE 36,020	12-29-1998	ROBERT R. MOORE	
	AP	US-569,839	10-20-1896	J. T. R. ROELOFFS	
	AQ	US-3,470,872	10-07-1969	H. R. GRIESHABER	
	AR	US-3,875,595	04-08-1975	EDWARD C. FRONING	
	AS	US-4,232,660	11-11-1980	ROBERT L. COLES	
	AT	US-4,440,168	04-03-1984	MARK G. WARREN	
	AU	US-4,481,947	11-13-1984	MARTIN H. CHESTER	
	AV	US-4,545,374	10-08-1985	ROBERT E. JACOBSON	
	AW	US-4,573,448	03-04-1986	PARVIZ KAMBIN	
	AX	US-4,617,922	10-21-1986	CALVIN GRIGGS	
	AY	US-4,620,460	11-04-1986	FRANK GONZALES, JR.	
	AZ	US-4,736,738	04-12-1988	MATEJ LIPOVSEK	
	BA	US-4,747,394	05-31-1988	ROBERT S. WATANABE	
	BB	US-4,798,111	01-17-1989	CHARLES D. CHEESEMAN	
	BC	US-4,803,976	02-14-1989	ROBERT FRIGG	
	BD	US-4,817,587	04-04-1989	WOODROW W. JANESE	
	BE	US-4,882,958	11-28-1989	RICHARD L. MCNEELY	
	BF	US-5,035,232	07-30-1991	THEODOR LUTZE	
	BG	US-5,048,379	09-17-1991	ROBERT E. GRAMERA	
	BH	US-5,052,373	10-01-1991	GARY K. MICHELSON	
	BI	US-5,084,043	01-28-1992	PETER S. HERTZMANN	
	BJ	US-5,098,435	03-24-1992	DENIS P. STEDNITZ	
	BK	US-5,133,720	07-28-1992	ALEX M. GREENBERG	
	BL	US-5,135,525	08-04-1992	JUERGEN BISCOPING	
	BM	US-5,148,724	09-22-1992	GARY R. REXFORD	
	BN	US-5,195,541	03-23-1993	THEODORE G. OBENCHAIN	
	BO	US-5,275,611	01-04-1994	ROBERT S. BEHL	
	BP	US-5,292,309	03-08-1994	ROBERT A. VAN TASSEL	
	BQ	US-5,303,694	04-19-1994	W. E. MICHAEL MIKHAIL	
Examiner Signature				Date Considered	

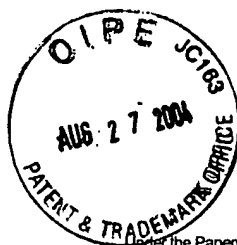


PTO/SB/08a/b (08-03)  
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				Application Number	10/021,809 – Conf. # 2099
				Filing Date	October 30, 2001
				First Named Inventor	Robert E. Simonson
				Art Unit	3731
				Examiner Name	Uyen T. Ho
Sheet	2	of	4	Attorney Docket Number	101896-276 (DEP-5241)

	BR	US-5,312,360	05-17-1994	ROBERT S. BEHL	
	BS	US-5,356,413	10-18-1994	MARTINS ET AL.	
	BT	US-5,363,841	11-15-1994	WESLEY L. COKER	
	BU	US-5,431,651	06-11-1995	E. MARLOWE GOBLE	
	BV	US-5,439,464	08-08-1995	DAVID E. SHAPIRO	
	BW	US-5,512,038	04-30-1996	DARRELL D. O'NEAL	
	BX	US-5,601,550	02-11-1997	RENE D. ESSER	
	BY	US-5,687,739	11-18-1997	WILLIAM E. MCPHERSON	
	BZ	US-5,716,415	02-10-1998	ARTHUR D. STEFFEE	
	CA	US-5,743,853	04-28-1998	ROBERT A. LAUDERDALE	
	CB	US-5,746,720	05-05-1998	ALBERT E. STOUDE, JR	
	CC	US-5,766,221	06-16-1998	THEODORE V. BENDEREV	
	CD	US-5,816,257	10-06-1998	ALBERT K. CHIN	
	CE	US-5,851,207	12-22-1998	MORRIS DANIEL CESARONE	
	CF	US-5,882,344	03-16-1999	ALBERT E. STOUDE, JR.	
	CG	US-5,885,300	03-23-1999	YASUAKI TOKUHASHI	
	CH	US-5,891,147	04-06-1999	PETER A. MOSKOVITZ	
	CI	US-5,895,352	04-20-1999	JEFFREY B. KLEINER	
	CJ	US-5,895,390	04-20-1999	MICHAEL C. MORAN	
	CK	US-5,897,593	04-27-1999	DOUGLAS W. KOHRS	
	CL	US-5,899,901	05-04-1999	JEFFREY KEITH MIDDLETON	
	CM	US-5,902,231	05-11-1999	KEVIN T. FOLEY	
	CN	US-5,913,818	06-22-1999	FRED H. CO	
	CO	US-5,928,139	07-27-1999	TIBOR B. KOROS	
	CP	US-5,944,658	08-31-1999	TIBOR B. KOROS	
	CQ	US-5,967,970	10-19-1999	MICHAEL A. COWAN	
	CR	US-5,971,920	10-26-1999	GUNTHER PETER NAGEL	
	CS	US-5,996,447	12-07-1999	DAVID BAYOUTH	
	CT	US-6,007,487	12-28-1999	KEVIN T. FOLEY	
	CU	US-6,010,520	01-04-2000	C. PHILLIP PATTISON	
	CV	US-6,063,088	05-16-2000	CHARLES J. WINSLOW	
	CW	US-6,080,155	06-27-2000	GARY KARLIN MICHELSON	
	CX	US-6,081,741	06-27-2000	J. MARCUS HOLLIS	
	CY	US-6,083,225	07-04-2000	CHARLES J. WINSLOW	
	CZ	US-6,113,602	09-05-2000	PAUL M. SAND	
	DA	US-6,120,434	09-19-2000	SHUICHI KIMURA	
	DB	US-6,120,506	09-19-2000	DOUGLAS W. KOHRS	
	DC	US-6,152,871	11-28-2000	KEVIN T. FOLEY	
	DD	US-6,156,006	12-05-2000	IVO BROSENS	
	DE	US-6,162,236	12-19-2000	TOSHIHIKO OSADA	
	DF	US-6,176,823	01-23-2001	KEVIN T. FOLEY	
	DG	US-6,197,002	03-06-2001	FRANCIS PETERSON	
	DH	US-6,206,826	03-27-2001	HALLETT MATHEWS	
	DI	US-6,206,885	03-27-2001	FATHALI GHahremani	
	DJ	US-6,214,004	04-10-2001	WESLEY L. COKER	
	DK	US-6,224,597	05-01-2001	WESLEY L. COKER	
	DL	US-6,224,608	05-01-2001	MICHAEL CICCOLELLA	

Examiner Signature		Date Considered	
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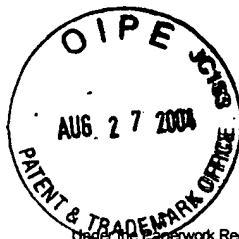
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				First Named Inventor	Robert E. Simonson
				Art Unit	3731
				Examiner Name	Uyen T. Ho
Sheet	3	of	4	Attorney Docket Number	101896-276 (DEP-5241)

	DM	US-6,245,072	06-12-2001	THOMAS ZDEBLICK	
	DN	US-6,258,097	07-10-2001	KEVIN COOK	
	DO	US-6,267,763	07-31-2001	SALVATORE CASTRO	
	DP	US-6,270,498	08-07-2001	GARY KARLIN MICHAELSON	
	DQ	US-6,283,966	09-04-2001	RODNEY L. HOUFBURG	
	DR	US-6,287,313	09-11-2001	RICK SASSO	
	DS	US-6,296,609	10-02-2001	SALVADOR A. BRAU	
	DT	US-6,312,432	11-06-2001	JOHN W. LEPPELMEIER	
	DU	US-6,342,057	01-29-2002	MICHAEL BRACE	
	DV	US-6,348,058	02-19-2002	TONY MELKENT	
	DW	US-6,354,176	03-12-2002	WILLIAM F. NORDLIN	
	DX	US-6,371,959	04-16-2002	MICHAEL E. TRICE	
	DY	US-6,371,968	04-16-2002	TAKAHIRO KOGASAKA	
	DZ	US-6,418,821	07-16-2002	MASAHICO YAMAKAWA	
	EA	US-6,428,472	08-06-2002	KENT HAAS	
	EB	US-6,461,330	10-08-2002	KUNIHICO MIYAGI	
	EC	US-6,520,907	02-18-2003	KEVIN T. FOLEY	
	ED	US-6,530,926	03-11-2003	THOMAS W. DAVISON	
	EE	US-6,540,756	04-01-2003	THOMAS F. VAUGHAN	
	EF	US-6,692,434	02-17-2004	STEPHEN RITLAND	
	EG	US-D433,296	11-07-2000	MASAHICO YAMAKAWA	
	EH	US-D438,074	02-27-2001	DONALD E. MARR	
	EI	US-D361,381	08-15-1995	TIBOR KOROS	
	EJ	US-D436,513	01-23-2001	MASAHICO YAMAKAWA	
	EK	US-D466,766	12-10-2002	GARRY MARTY	
	EL	US-D399,955	10-20-1998	TIBOR KOROS	

FOREIGN PATENT DOCUMENTS						
Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sup>6</sup>
		Country Code <sup>3</sup> -Number <sup>4</sup> -Kind Code <sup>5</sup> (if known)				
	EM	WO 02/060330 A1	08-08-2002	RITLAND		
	EN	WO 00/18306 A1	04-06-2000	RITLAND		

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. <sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. <sup>6</sup> Applicant is to place a check mark here if English language Translation is attached.

Examiner Signature		Date Considered	
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				First Named Inventor	Robert E. Simonson
				Art Unit	3731
				Examiner Name	Uyen T. Ho
Sheet	4	of	4	Attorney Docket Number	101896-276 (DEP-5241)

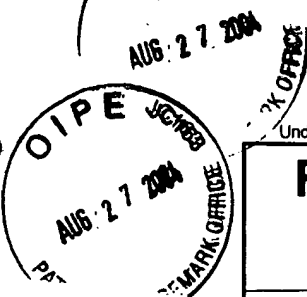
NON PATENT LITERATURE DOCUMENTS					
Examiner Initials	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.			T <sup>2</sup>
	EO	WOLFHARD CASPAR, <i>Technique of Microsurgery</i> , in MICROSURGERY OF THE LUMBAR SPINE: PRINCIPLES AND TECHNIQUES IN SPINE SURGERY 105-122 (Aspen Publications, 1990)			
	EP	Web page, <a href="http://www.brainlab.com">http://www.brainlab.com</a> , April 2, 2002			
	EQ	KAMBIN, PARVIZ, "Arthroscopic Microdiscectomy: Minimal Intervention in Spinal Surgery", National Library of Medicine, 1991 p 67-100, Urban & Schwarzenberg			
	ER	SCHAFFER, JOHNATHAN et al., "Percutaneous Posterolateral Lumbar Discectomy and decompression with a 6.9 Millimeter Cannula", The Journal of Bone and Joint Surgery, 1991, pp 822-831			
	ES	SAVITZ, MARTIN, "Same-Day Microsurgical Arthroscopic Latera-Approach Laser-Assisted (SMALL) Fluoroscopic Discectomy", Journal of Neurosurgery; June 1994, pp 1039-1045			
	ET	KAMBIN, PARVIZ, "Percutaneous Posterolateral Discectomy", Clinical Orthopaedics and Related Research, Section II, pp 145-154			
	EU	Sofamor Danek Video Systems Brochure			
	EV	HILTON, DONALD et al., "Medtronic Sofamor Danek METRX Microdiscectomy Surgical Technique Brochure", 2001			
	EW	WILTSE, "New Uses and Refinements of the Paraspinal Approach to the Lumbar Spine", Spine, Vol. 13 Number 6 1988, pp. 696-706			

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup>Applicant's unique citation designation number (optional). <sup>2</sup>Applicant is to place a check mark here if English language Translation is attached.

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Examiner Signature		Date Considered	
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# FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 180.00

## Complete if Known

Application Number 10/021,809-Conf. #2099  
Filing Date October 30, 2001  
First Named Inventor Robert E. Simonson  
Examiner Name U. T. Ho  
Art Unit 3731  
Attorney Docket No. 101896-0276 (DEP-5241)

## METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None

☐ Deposit Account:

Deposit Account Number

141449

Deposit Account Name

Nutter McClennen & Fish LLP

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	180.00
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 180.00

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$) 0.00

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

		Extra Claims	Fee from below		Fee Paid
Total Claims	<input type="text"/>	-20** =	<input type="text"/>	x	<input type="text"/>
Independent Claims	<input type="text"/>	-3** =	<input type="text"/>	x	<input type="text"/>
Multiple Dependent			<input type="text"/>		<input type="text"/>

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1202	18	2202	9	Claims in excess of 20	
1201	86	2201	43	Independent claims in excess of 3	
1203	290	2203	145	Multiple dependent claim, if not paid	
1204	86	2204	43	** Reissue independent claims over original patent	
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent	

SUBTOTAL (2) (\$) 0.00

\*\*or number previously paid, if greater; For Reissues, see above

## SUBMITTED BY

Name (Print/Type) Lisa J. Michaud

Registration No. (Attorney/Agent) 44,238

(Complete (if applicable))

Telephone (617) 439-2000

Signature

Date August 24, 2004

## Fee Transmittal

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: August 24, 2004

Signature: (Lisa J. Michaud)